

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
PCS Partners, L.P.)	WT Docket No. 16-149
)	
Petition for Waiver of 47 C.F.R. § 90.353(b))	
And Request for Extension of Time)	
And for Expedited Treatment)	

**PCS PARTNERS, L.P. REPLY TO
CONSOLIDATED OPPOSITION OF
INOVONICS WIRELESS CORPORATION**

PCS Partners, L.P. ("PCSP"), by its attorneys, hereby replies to the Consolidated Opposition ("Opposition") of Inovonics Wireless Corporation ("Inovonics") to PCSP's Petition for Reconsideration ("Petition") in the above-captioned proceeding.¹ The Petition seeks reconsideration of the Order² denying PCSP's petition for waiver of Section 90.353(b) of the Commission's rules and request for extension of time to complete buildout obligations associated with PCSP's Multilateration and Location Monitoring Service ("M-LMS") licenses.

The brevity of the Inovonics Opposition underscores its lack of credibility. The Commission's longstanding spectrum sharing scheme for the 902-928 MHz band requires unlicensed users such as Inovonics, as well as M-LMS licensees and federal government and Industrial, Scientific and Medical ("ISM") users, to operate on a co-existent basis throughout the

¹ The Opposition also addresses filings by other parties in a separate proceeding (WT Docket No. 16-385); PCSP replies to the Opposition only to the extent that it addresses PCSP's Petition. PCSP notes that Inovonics failed to serve its Opposition on PCSP, as required by the Commission's rules. See 47 C.F.R. § 1.106(g) ("Oppositions ... shall be served upon petitioner....").

² In the Matter of PCS Partners, L.P., Petition for Waiver of 47 C.F.R. § 90.353(b) and Request for Extension of Time and for Expedited Treatment, WT Dkt. 16-149, Order, DA 17-1125 (WTB MD, Nov. 20, 2017) ("Order").

band. Inovonics, however, wants “regulatory certainty” solely for its own interests as a manufacturer of unlicensed radio equipment.³ In its view, “certainty” should be achieved not by coexistence testing and multiple operators making efficient use of the band to serve the public interest, but simply by keeping licensed users out of the band entirely.⁴ Inovonics’ self-serving stance fails to acknowledge that it has benefited from a regulatory environment that – as the Commission has acknowledged – resulted in prolonged “regulatory uncertainty”⁵ for PCSP. That uncertainty was then followed by the arbitrary imposition of a two-year construction deadline.

Inovonics asserts that “spectrum warehousing ... has taken place,”⁶ while providing no basis to support this specious claim. As the Commission has explained, warehousing entails acquiring and holding spectrum without the intent to use it, while preventing its use by competitors.⁷ PCSP, both by participating in the M-LMS auction and through its substantial investments in pursuing development of technology for its licensees,⁸ has “showed that [it is] genuinely interested in acquiring spectrum to utilize and not warehouse.”⁹ And, of course, for as long as PCSP has held its licenses the spectrum has never been unused, given the unique spectrum sharing environment.

As with its unsupported claim of “warehousing,” Inovonics resorts to a broad brush attack on all M-LMS licensees, failing to acknowledge, distinguish, or respond to the specific facts and

³ See Opposition at 3.

⁴ See *id.* at n.6 (“the activation of any new M-LMS system in 902-920 [sic] MHz is a subject of concern for unlicensed users.”). Notably, because Inovonics did not claim that its equipment uses any portion of PCSP’s licensed spectrum, it has not shown that it would be affected by the grant of relief sought by PCSP.

⁵ Order at ¶ 5 (citing Amendment of the Commission’s Part 90 Rules in the 904-909.75 and 9175-928 MHz Bands, WT Dkt. 06-49, Notice of Proposed Rulemaking, 21 FCC Rcd 2809 (2006)) (emphasis added).

⁶ Opposition at 3.

⁷ See, e.g., Applications of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC and Cox TMI, LLC For Consent to Assign AWS-1 Licenses et al., Memorandum Opinion and Order and Declaratory Ruling, 27 FCC Rcd 10698, ¶¶ 68, 118 (2012).

⁸ See, e.g., Petition at 2-3, 18.

⁹ Amendment of Part 90 of the Commission’s Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band et al., Second Report and Order, 12 FCC Rcd 19079, ¶ 34 (2007).

arguments that support PCSP's Petition. Indeed, in just one instance, and only as an afterthought, does Inovonics even cite PCSP's Petition.¹⁰ There, Inovonics inanely and without explanation states that PCSP's Petition challenges "factual findings not material to warrant reconsideration."¹¹ Contrary to this claim, the Petition explained at length the material errors in the Order.¹² Inovonics likewise ignores PCSP's challenges to the Order's other deficiencies,¹³ as well as new facts and arguments set forth in the Petition.¹⁴

In sum, Inovonics' argument that PCSP has not "identif[ied] material errors, omissions or new reasons why the Commission should reconsider"¹⁵ the Order is entirely without merit, and its Opposition must be denied.

Respectfully submitted,

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¹⁰ See Opposition at n.10.

¹¹ See *id.*

¹² See, e.g., Petition at 4-10, 13-17, 19, and Declaration of Nat. Natarajan, Ph.D.

¹³ See, e.g., *id.* at 11-12, 16-18, 18-21.

¹⁴ See, e.g., *id.* at 18.

¹⁵ Opposition at 2.

CERTIFICATE OF SERVICE

I, Jessica D. Gyllstrom, certify that on this 12th day of January, 2018, I served copies of the foregoing Reply by causing them to be sent by U.S. first-class mail, postage prepaid, to each of the following parties:

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